

DEC 22 2010

JULIA C. DUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JEREMY ANTWAN HUTCHERSON,)

Plaintiff,)

v.)

HALIFAX COUNTY,)

Defendant.)

Civil Action No. 7:10cv00566

MEMORANDUM OPINION

By: Samuel G. Wilson

United States District Judge

This is an action pursuant to 42 U.S.C. §1983 by an inmate at Halifax Adult Detention Center, Jeremy Antwan Hutcherson, against Halifax County, Virginia, essentially complaining that he received ineffective assistance of counsel in connection with two criminal convictions in Halifax County. The Court dismisses Hutcherson's complaint without prejudice because it fails to state a plausible claim for relief against Halifax County.

I.

Hutcherson complains that his court-appointed counsel is an alcoholic who was incarcerated for driving under the influence at a time that he should have been preparing Hutcherson's defense. He seeks \$10 million in damages. Hutchinson's complaint indicates that he has a related proceeding pending in the Supreme Court of Virginia.

II.

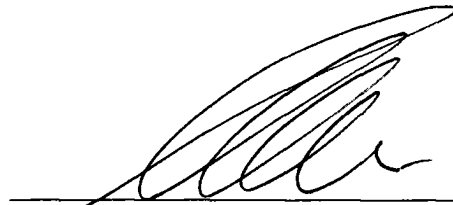
Hutcherson's suit is subject to dismissal on a host of grounds the court will not belabor here. It is sufficient to state that Halifax County is subject to liability under § 1983 only if an official policy of the County causes the injury of which the plaintiff complains. Oklahoma City v. Tuttle, 471 U.S. 808, 820 (1985) ("[T]he municipal policy must be 'the moving force of the

constitutional violation.”) (quoting Polk Cnty. v. Dodson, 454 U.S. 312, 325 (1981)). The county cannot be held liable under § 1983 for the conduct of Hutcherson’s court-appointed counsel. Polk Cnty., 454 U.S. at 325 (“[A] public defender does not act under color of state law when performing a lawyer’s traditional functions as counsel to a defendant in a criminal proceeding.”). Hutcherson’s complaint falls far short of raising a plausible claim for relief against Halifax County. Accordingly, the court dismisses it without prejudice pursuant to 28 U.S.C. 1915A(b)(1).

III.

For the reasons stated herein, the court dismisses Hutcherson’s complaint without prejudice.

ENTER: December 22, 2010


UNITED STATES DISTRICT JUDGE